

**U S Army Corps
of Engineers**
Huntington District

Public Notice

In reply refer to Public Notice No.

200100407

Issuance Date:

February 13, 2008

Stream:

Rockcamp Run

Closing Date:

March 14, 2008

Please address all comments and inquiries to:

U.S. Army Corps of Engineers, Huntington District

ATTN: CELRH-OR-F Public Notice No. (reference above)

502 Eighth Street

Huntington, West Virginia 25701-2070

Phone: (304) 399-5210

PUBLIC NOTICE: The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

REGULATORY PROGRAM: Since its early history, the U.S. Army Corps of Engineers (Corps) has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the Corps Regulatory Program.

SECTION 10: The Corps is directed by Congress under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate all work or structures in or affecting the course, condition or capacity of navigable waters of the United States (U.S.). The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

SECTION 404: The Corps is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the discharge of dredged and fill material into all waters of the United States, including wetlands. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

TO WHOM IT MAY CONCERN: The following application has been submitted for a Department of the Army Permit under the provisions of Section 404 of the Clean Water Act.

APPLICANT: Sands Hill Mining, LLC
PO Box 650
38701 State Route 160
Hamden, Ohio 45634

LOCATION: The project area is located in jurisdictional waters of the United States in the Rockcamp Run watershed. The site, identified by the applicant as the Big Valley mine site, is located south of the Village of Radcliff, south of State Route 32 and east of Township Road 22 in Vinton County, Ohio.

DESCRIPTION OF PROPOSED WORK: The applicant proposes to place fill material into waters of the United States in association with the construction of a surface coal mine operation. According to the applicant, the purpose of the project is to recover available coal reserves in the project area. Effective removal of approximately 6.6 millions tons of coal is expected to occur from the No. 4A, 5, 6 and 7 coal seams. In addition, limestone is proposed to be extracted from one seam.

The original project area for the Big Valley surface coal mine site included approximately 908 acres. In a Nationwide Permit Number 21 issued from this office on March 21, 2003, this office verified the placement of fill material into 32,000 linear feet of jurisdictional stream and 3.93 acres of jurisdictional wetlands. The Ohio Environmental Protection Agency issued Individual 401 Water Quality Certification for this proposal on March 28, 2001. The Ohio Department of Natural Resources, Division of Mineral Resources Management (ODNR-DMRM) issued the surface coal mine permit for this activity on July 13, 2001.

The NWP verified by this office on March 21, 2003 expired on March 18, 2007. Because the applicant had commenced permitted work in waters of the United States on-site, they have one additional year (or until March 18, 2008) to complete all authorized work in waters on-site. The applicant has provided information that of the permitted work in waters, they have completed or will complete filling activities in 3.93 acres of wetlands and 24,080 linear feet of stream by March 18, 2008. Because the original delineation for this site was completed and verified in 2001 for this site, the portion of the site that has not been affected, totaling 326 acres, was re-delineated in 2007. During this investigation, it was determined that an additional 1,871 linear feet of stream and 0.06 acre of wetland are within the project limits and had not been delineated during the 2001 investigation. These waters, as well as the originally delineated 8,181 linear feet of stream, are within the 326 acre area.

In order to achieve the project purpose as described above, the applicant must complete the mining plan as originally proposed. In order to achieve the project purpose, the applicant requests authorization to discharge dredged and/or fill material into 10,052 linear feet of stream and 0.06 acre of wetlands in association with coal removal activities. Work would occur within approximately 326 acres of the original 908 acre project area. The purpose of all remaining impacts to streams and wetlands is coal removal, as all other features of the activity including roads and sediment ponds have already been constructed. Details of the streams proposed to be affected, including their quality (as assessed by the Ohio Environmental Protection Agency's Qualitative Habitat Evaluation Index protocol), are attached in Table 1.

MITIGATION: To compensate for impacts to a total of 34,132 linear feet of stream (in association with completed and proposed impacts), the applicant proposes to reconstruct a total of 34,132 linear feet of stream. To date, the applicant has completed reclamation of 3,360 linear

feet of stream and has submitted one monitoring report to document the status of this mitigation. During reclamation of the remaining 30,772 linear feet of stream, stream profiles, flow rates and channel dimensions of restored streams are proposed to be as similar as practicable to pre-mining stream conditions. Riparian buffer zones of 50' in width on each stream side would be established with native vegetation. To compensate for impacts to a total of 3.99 acres of wetlands, 5.9 acres of emergent wetland and 1.8 acres of forested wetland would be restored on-site.

The applicant proposes to monitor stream and wetland mitigation for a minimum of five years. The applicant proposes to ensure streams and wetlands are characterized by QHEI scores and ORAM scores that are at least as high as those scores that stream and wetlands received prior to impact. Vegetated riparian corridors would be monitored and the applicant proposes supplemental plantings should survivability fall below 75 percent. Additional details, including but not limited to, how hydrology would be restored to stream channels and protection of reconstructed streams and wetlands in perpetuity, will be required. A final mitigation plan prepared in accordance with Regulatory Guidance Letter 02-2 will be required for this office to evaluate whether proposed mitigation is sufficient to compensate for the loss of jurisdictional waters of the United States in association with this proposal.

ALTERNATIVE ANALYSIS: A total of 0.06 acre of jurisdictional wetlands would be filled as a result of the proposal. The project does not require access to or siting within the wetlands to fulfill its basic purpose and is considered a non-water dependent activity. The Section 404(b)(1) Guidelines state for non-water dependent activities, practicable alternatives that do not involve wetlands are presumed to be available unless clearly demonstrated otherwise. Because this is an expansion of an existing project, the applicant would not be required to provide an off-site alternative analysis but would be required to present all practicable on-site avoidance, minimization and compensation measures. The applicant has submitted information concerning these measures for review. No permit will be issued by this office until our review of the on-site alternative analysis clearly shows that upland alternatives are not available to achieve the applicant's goal.

ATTACHMENTS: Plans of the proposed work are attached to this notice.

WATER QUALITY CERTIFICATION: A Section 401 Water Quality Certification is required for this project. It is the applicant's responsibility to obtain that certification from the Ohio Environmental Protection Agency.

HISTORIC & CULTURAL RESOURCES: The National Register of Historic Places has been consulted and it has been determined there are no properties currently listed on the register that are in the area affected by the project. A copy of this public notice will be sent to the State Historic Preservation Office (SHPO) for their review. Comments concerning archaeological sensitivity of a project area should be based upon collected data.

During the initial review of this proposal by the Ohio Department of Natural Resources – Division of Mineral Resources Management, the DMRM assessed compliance of this proposal under the provisions of the Surface Mine Control and Reclamation Act. During this review, the

DMRM concluded that no historic properties would be affected as a result of this undertaking.

THREATENED & ENDANGERED SPECIES: This project is located within the known or historic range of the Indiana bat (Endangered); and American burying beetle (E) and timber rattlesnake (PC).

Approximately 329 acres of the original project area has not yet been disturbed in association with coal removal activities. Based on information provided by the applicant, approximately 90 percent of this area is characterized by a mixed mesophytic forest and disturbed forest, with early successional traits. The forested species are, in general, fairly young and a fairly dense understory is present. It is likely that some low quality, suitable habitat for the Indiana bat is present within the site limits. In order to avoid and minimize impacts to the Indiana bat, a special condition of any permit that may be issued for this proposal would require that no clearing of suitable habitat trees occur during the summer roosting period of April 15 to September 15. To compensate for impacts to suitable habitat trees, a special condition of any permit that may be issued for this proposal would require that the applicant establish trees that provide Indiana bat habitat in the riparian corridors of reconstructed streams. Based on these avoidance, minimization and compensation measures, this office has preliminarily determined that this proposal may affect, but is not likely to adversely affect, the Indiana bat.

Based on project location and habitat availability, it has been determined the proposal would have no affect on the American burying beetle or the timber rattlesnake.

This public notice serves as a request to the U.S. Fish and Wildlife Service for any additional information they may have whether any listed or proposed to be listed endangered or threatened species may be present in the area that would be affected by the activity, pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended).

PUBLIC INTEREST: Any person who has an interest, which may be adversely affected by the issuance of a permit, may request a public hearing. The request must be submitted in writing to the District Engineer on or before the expiration date of this notice and must clearly set forth the interest which may be adversely affected and the manner in which the interest may be adversely affected by the activity.

Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are: conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. In addition, the evaluation of the impact of the activity on the public interest will include

application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under the authority of Section 404(b) of the Clean Water Act. Written statements on these factors received in this office on or before the expiration date of this public notice will become a part of the record and will be considered in the final determination. A permit will be granted unless its issuance is found to be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. Persons wishing to submit comments, objections or requests for public hearings concerning the Corps of Engineers permit should write:

U.S. Army Corps of Engineers
ATTN: CELRH-OR-F **Public Notice No. 200100407**
502 8th Street
Huntington, West Virginia 25701-2070

Please note, the names and addresses of those who submit comments in response to this public notice become part of our administrative record and, as such, are available to the public under provisions of the Freedom of Information Act. Thank you for your interest in our nation's water resources. If you have any questions concerning this public notice, please call Ms. Desiree L. Hann of the North Regulatory Section at 304-399-5210.

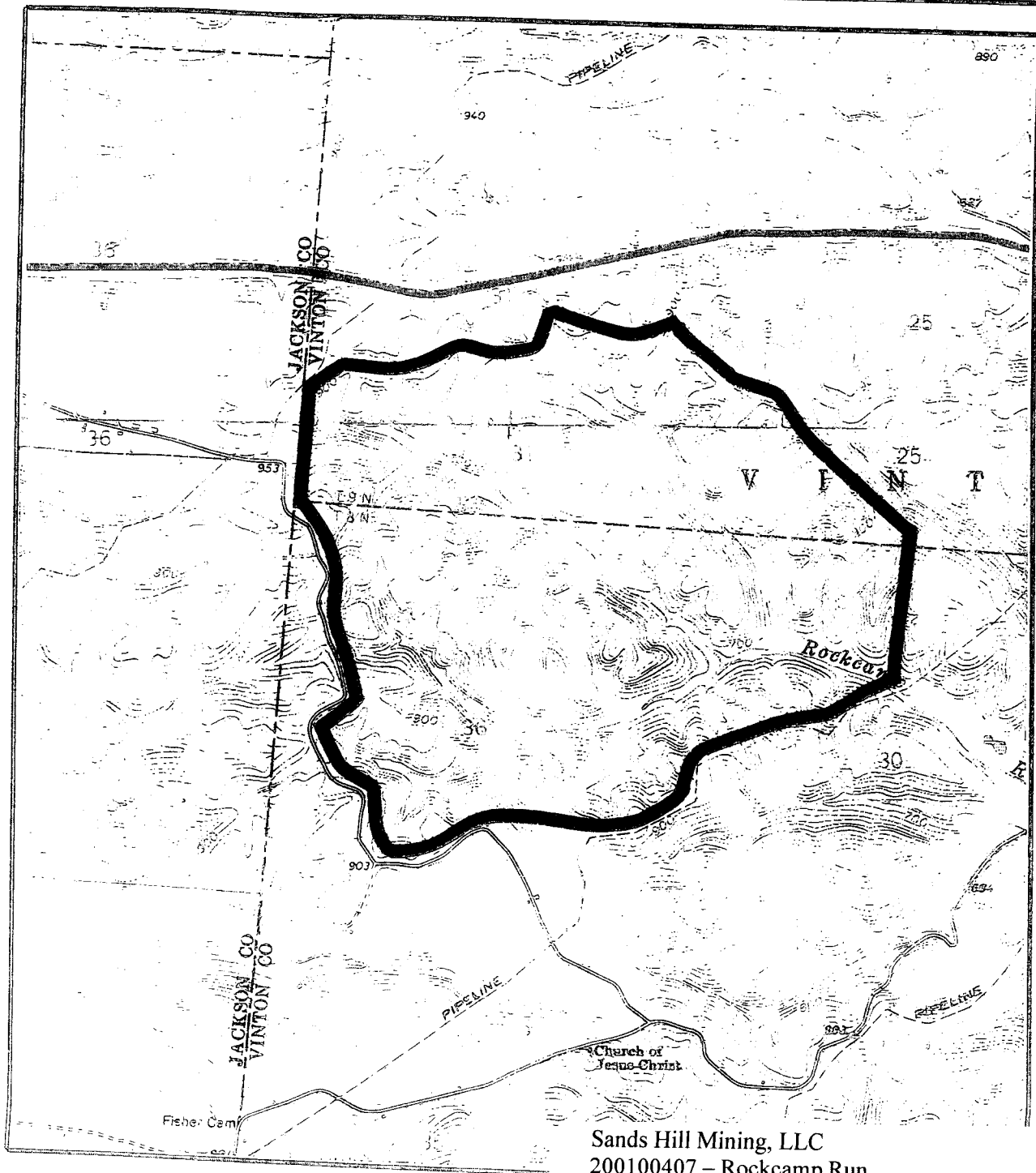
for 
Ginger Mullins
Chief, Regulatory Branch

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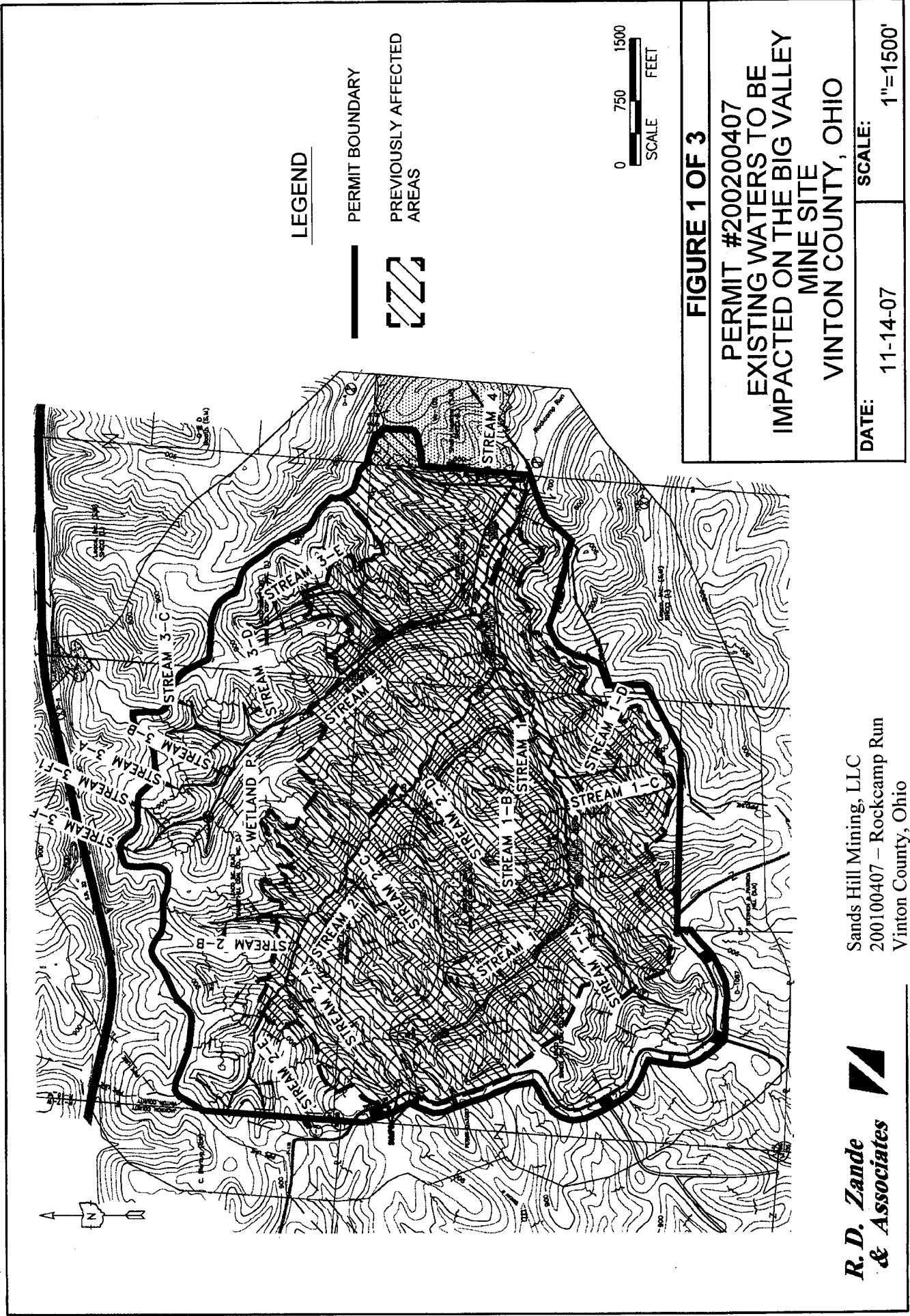
Sands Hill Coal Company, Inc.
Big Valley Mine Site

<u>Stream</u>	<u>OHEI Score</u>	<u>Linear Feet of Impact</u>	<u>Type of Impact (Stationing)</u>
1-A	50	656' (Int.)	Mine through (STA13+49-STA20+05)
2	63	1,327' (Int.)	Mine through (STA84+98-97+61)
2-B	42	577' (Int.)	Mine through (STA5+71-STA11+48)
2-E	49	522' (Eph.)	Mine through (STA0+00-STA5+22)
3	54	2,156' (Int.) 340' (Eph.)	Mine through (STA22+54-STA44+10)
3-A	44	821' (Int.)	Mine through (STA0+00-STA8+21)
3-B	41	821' (Int.) 204' (Eph.)	Mine through (STA0+00-STA10+25)
3-C	39	310' (Int.)	Mine through (STA0+00-STA3+10)
3-D	38.5	200' (Int.)	Mine through (STA0+00-STA2+00)
3-E	49	769' (Int.)	Mine through (STA012+83-STA20+52)
3-F	42	491' (Int.) 520 (Eph.)	Mine through (STA0+00-STA10+11)
3-F-1	41	338' (Eph.)	Mine through (STA0+00-STA63+38)
Total Impacts to Perennial Stream			0 Linear Feet
Total Impacts to Intermittent Stream			8,128 Linear Feet
Total Impacts to Ephemeral Streams			1,924 Linear Feet
TOTAL STREAM FOOTAGE IMPACTS			10,052 Linear Feet

SITE: Sands Hill Coal Company, Inc. - Proposed Big Valley Mine Vinton County Ohio
JOB #: 5638 **DATE:** October, 2000 **SCALE:** 1"=2000'
MAP: USGS 7.5 Minute Topographic Map **QUADS:** McArthur & Mulga, Ohio



Sands Hill Mining, LLC
200100407 - Rockcamp Run
Vinton County, Ohio
Location Map
Figure 1 of 6



R. D. Zande
& Associates

Sands Hill Mining, LLC
 200100407 - Rockcamp Run
 Vinton County, Ohio

Plan view - Locations of waters proposed to be impacted
 Figure 2 of 6

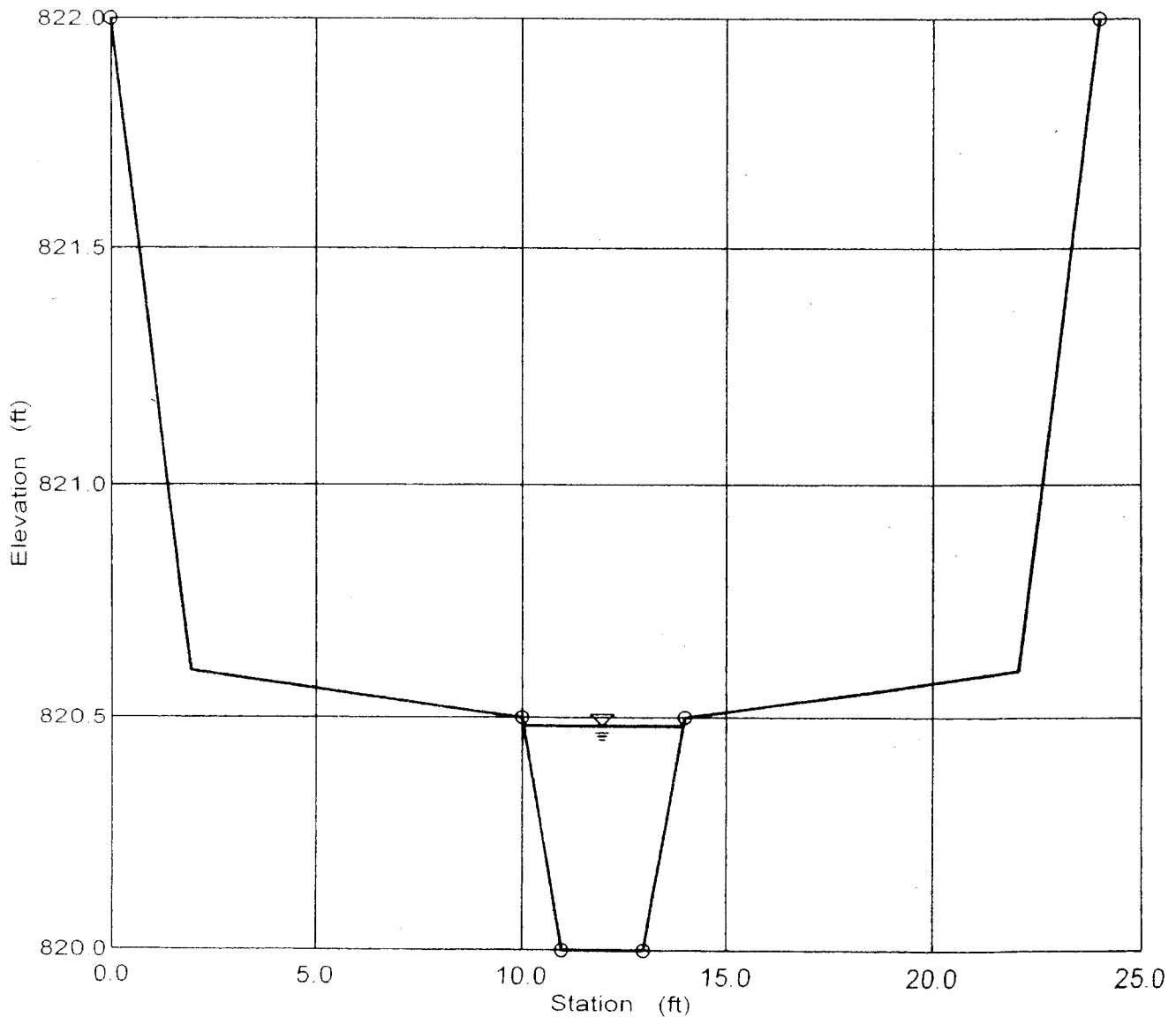
STREAM 2E - STA 0+00 - 1.5 YEAR
Cross Section for Irregular Channel

Project Description

Project File	h:\fmw\5638.fm2
Worksheet	STREAM 2E - STA 0+00 - STA 3+10
Flow Element	Irregular Channel
Method	Manning's Formula
Solve For	Water Elevation

Section Data

Wtd. Mannings Coefficient	0.033
Channel Slope	0.065000 ft/ft
Water Surface Elevation	820.48 ft
Discharge	7.90 ft ³ /s



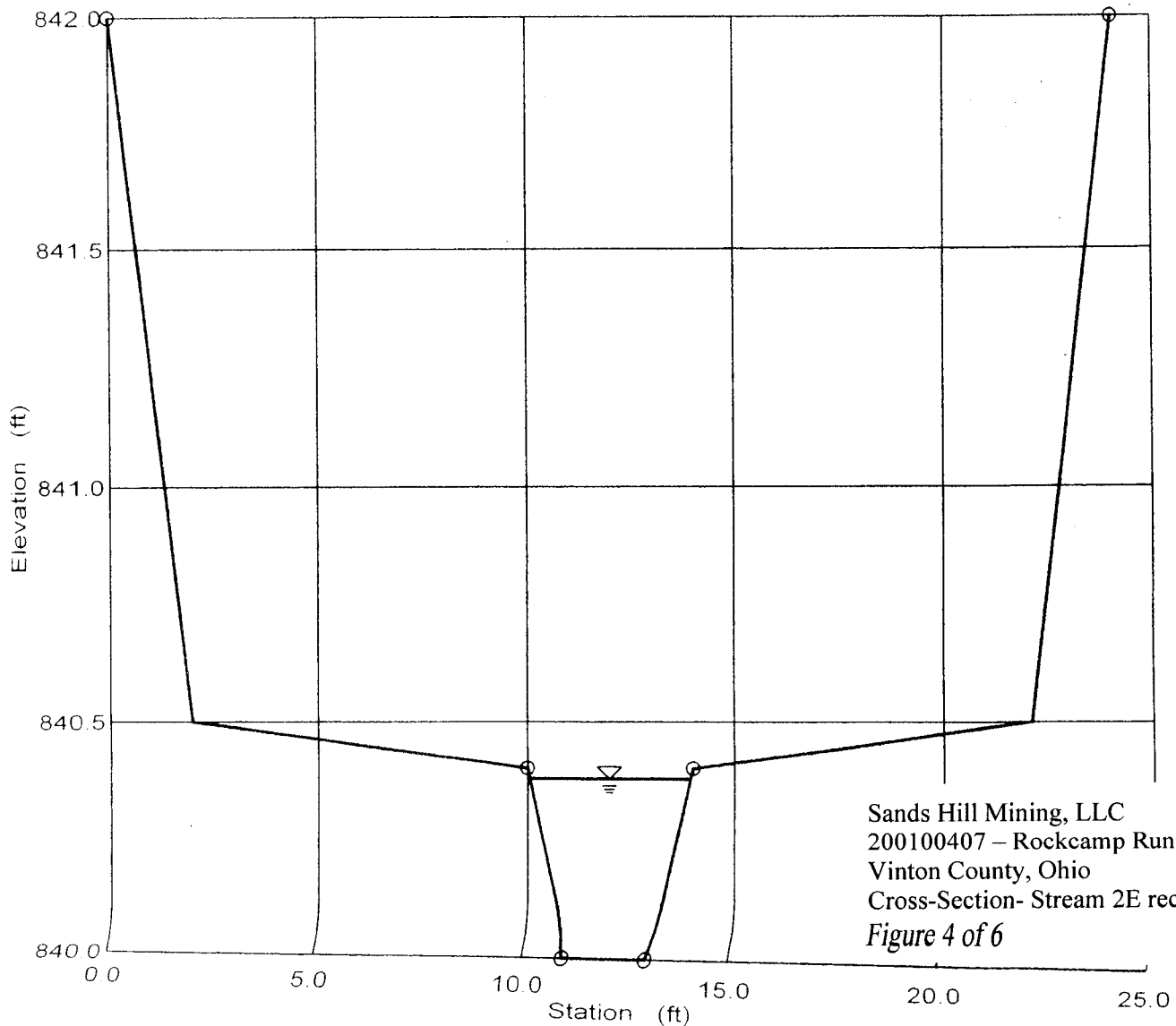
STREAM 2E - STA 3+10 - 1.5 YEAR **Cross Section for Irregular Channel**

Project Description

Project File	h:\fmw\5638.fm2
Worksheet	STREAM 2E - STA 3+10 - STA 5+22
Flow Element	Irregular Channel
Method	Manning's Formula
Solve For	Water Elevation

Section Data

Wtd. Mannings Coefficient	0.033
Channel Slope	0.094000 ft/ft
Water Surface Elevation	840.38 ft
Discharge	6.50 ft ³ /s



Sands Hill Mining, LLC
 200100407 - Rockcamp Run
 Vinton County, Ohio
 Cross-Section- Stream 2E reconstructed
Figure 4 of 6

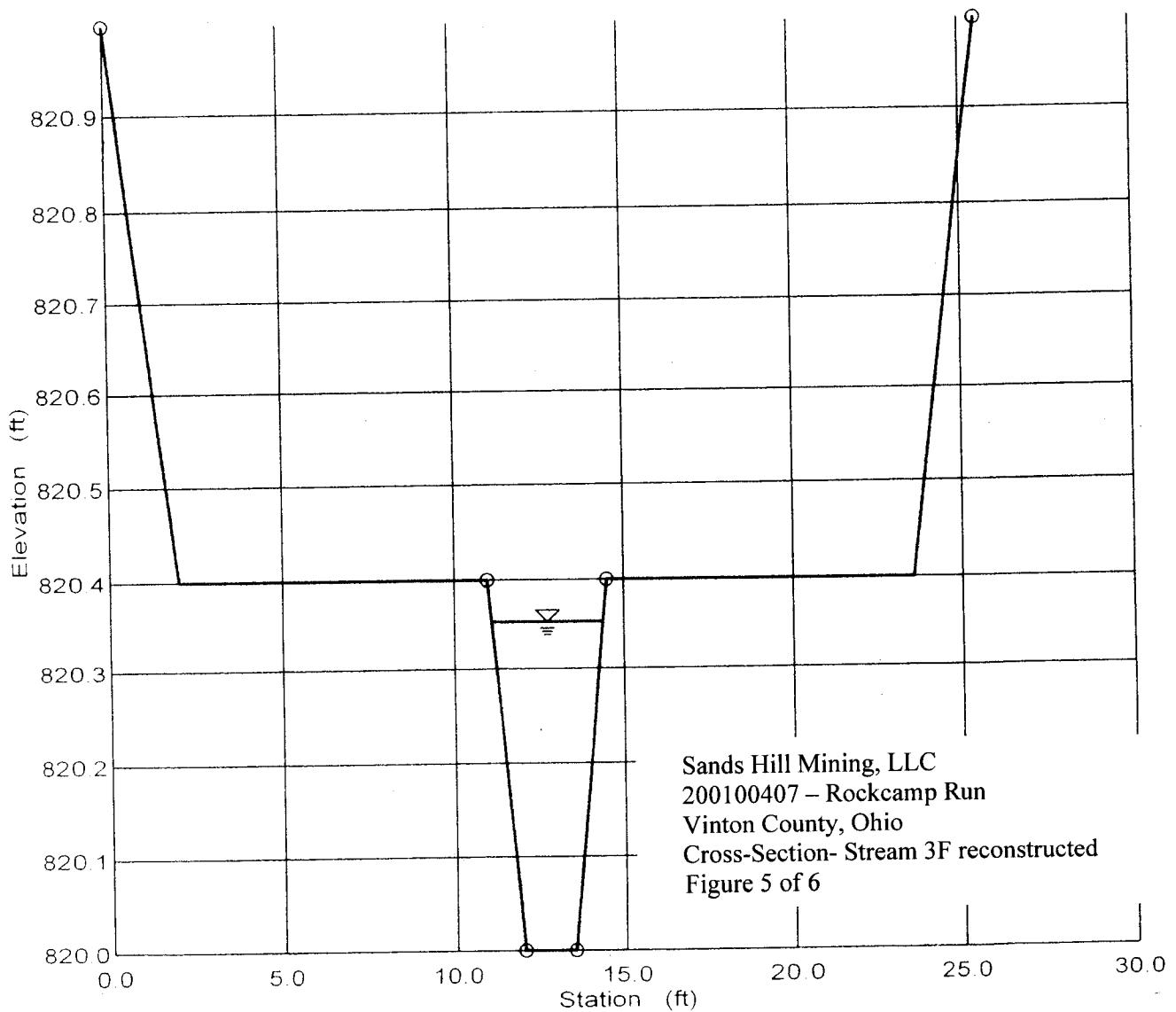
STREAM 3F - STA 4+82 - 1.5 YEAR Cross Section for Irregular Channel

Project Description

Project File	h:\fmw\5638.fm2
Worksheet	STREAM 3F - STA 4+82 - STA 5+19
Flow Element	Irregular Channel
Method	Manning's Formula
Solve For	Water Elevation

Section Data

Wtd. Mannings Coefficient	0.030
Channel Slope	0.160000 ft/ft
Water Surface Elevation	820.35 ft
Discharge	6.60 ft ³ /s

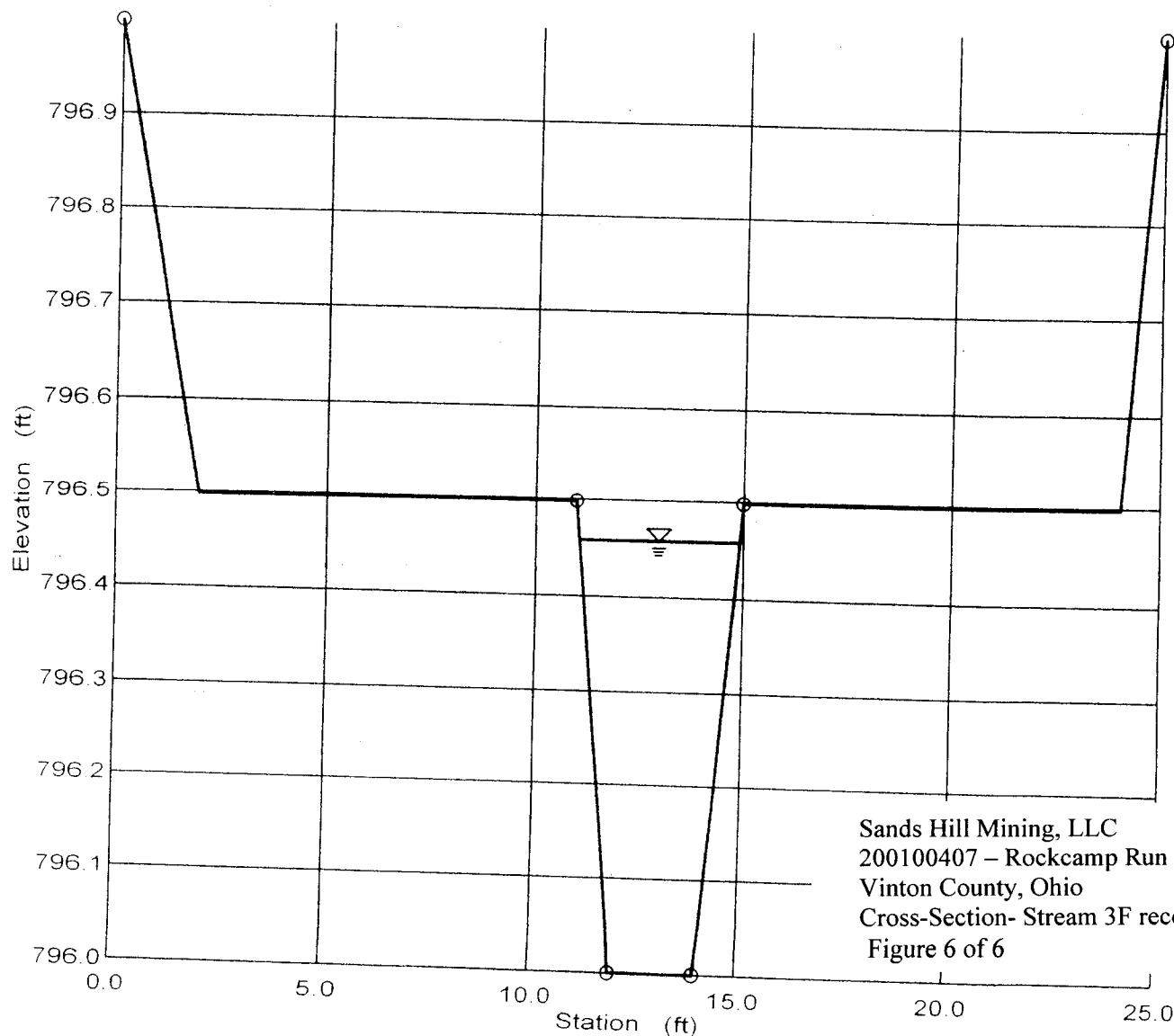


Sands Hill Mining, LLC
200100407 – Rockcamp Run
Vinton County, Ohio
Cross-Section- Stream 3F reconstructed
Figure 5 of 6

STREAM 3F - STA 0+00 - 1.5 YEAR Cross Section for Irregular Channel

Project Description	
Project File	h:\fmw\5638.fm2
Worksheet	STREAM 3F - STA 0+00 - STA 0+45
Flow Element	Irregular Channel
Method	Manning's Formula
Solve For	Water Elevation

Section Data	
Wtd. Mannings Coefficient	0.029
Channel Slope	0.090000 ft/ft
Water Surface Elevation	796.46 ft
Discharge	9.70 ft ³ /s



Sands Hill Mining, LLC
200100407 - Rockcamp Run
Vinton County, Ohio
Cross-Section- Stream 3F reconstructed
Figure 6 of 6